

NOTICE OF PROPOSED CHANGES

Fees Respiratory Care Board of California

NOTICE IS HEREBY GIVEN that the Respiratory Care Board of California (Board) is proposing to take the action described in the Informative Digest.

Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Respiratory Care Board of California at 3750 Rosin Court, Suite 100, Sacramento, California 95834, at 10:00 a.m. on January 2, 2018. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on January 2, 2018, or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference

Pursuant to the authority vested by Section 3722 of the Business and Professions Code (B & PC), and to implement, interpret or make specific sections 3775, and 3775.5 of said Code, the Board is considering amendments to Section 1399.395 of Division 13.6 of Title 16 of the California Code of Regulations (CCR) as follows:

A. Informative Digest

In accordance with the provisions of the Administrative Procedures Act, B & PC section 3722 authorizes the Board to adopt rules and regulations declaring policy of the Board, and for the administration of Chapter 8.3, of said code, known as the Respiratory Care Practice Act.

B & PC section 3775 establishes the statutory maximum fee schedule for biennial renewal of a respiratory care practitioner license. B & PC section 3775 also establishes the criteria to determine the delinquency fee for licenses that are not renewed prior to their expiration, as well as licenses renewed more than two years following license expiration. B & PC section 3775.5 establishes the fee for an inactive license.

This rulemaking action seeks to amend Division 13.6 of Title 16 of CCR section 1399.395 to increase the license renewal and delinquent fees for a respiratory care practitioner license. Under existing law, CCR section 1399.395 states the Board's fee schedule shall be adopted pursuant to sections 3775 and 3775.5 of the B & PC. CCR section 1399.395 sets forth the fee schedule for the biennial renewal of a respiratory care practitioner license. Prior to the increase from \$230 to \$250 effective July 1, 2017, the renewal fee was last increased on January 1, 2002.

Due to statutory constraints, the Board is unable to implement a single fee increase to stabilize its fund. Instead, the Board proposes a step increase to its renewal, delinquent and inactive fees, as follows: The implementation of the fee increases will make the following changes to the existing regulation, beginning July 1, 2018:

FEE	EXISTING	PROPOSED 7/1/18	PROPOSED 7/1/19	PROPOSED 7/1/20
Biennial Renewal Fee	\$250	\$275	\$300	\$330
Delinquent Fee	\$250	\$275	\$300	\$330
Delinquent Fee > 2 years	\$500	\$550	\$600	\$660
Inactive License Fee	\$250	\$275	\$300	\$330

Amend section 1399.395 of Division 13.6 of Title 16 of the California Code of Regulations:

The proposed amendments raise the renewal fee for respiratory care practitioners from \$250 to \$275 effective July 1, 2018; from \$275 to \$300 effective July 1, 2019; and from \$300 to \$330 effective July 1, 2020.

Pursuant to B & PC section 3775, and in response to the proposed renewal fee increase, the delinquency fee imposed on those that fail to renew their license prior to expiration will also increase. As mandated by section 3775, if renewed not more than two years from the date of expiration, a delinquency fee shall be 100 percent of the renewal fee in effect at the time of renewal. However, if the license is renewed after two years, but not more than three years from the date of the expiration of the license, the delinquency fee shall be 200 percent of the renewal in effect at the time of renewal.

The need for this proposed regulatory action is to ensure future fiscal solvency for the Board. The Board's current fund condition indicates there will be insufficient funds to support Board operations after FY 17/18. Analysis of the Board's Fund Balance measured by Months in Reserve projects that at the end of the current fiscal year 2017/18, a 0.8 month reserve will exist. However, the reserve is projected to steadily decline in the following fiscal years to the point where there will be a -2.2 month deficit at the end of FY 2018/19 and a -5.3 month deficit at the end of FY 2019/20. Correcting the Board's structural imbalance will be unattainable without a renewal fee increase.

The fund balance provides specific information on the Board's current fund as well as projections for future years. There are several factors that have contributed to the fund's imbalance such as the BreEZe system, employee benefits, and enforcement expenses, to name a few. In addition, renewal and delinquency fees have remained unchanged since 2002, with the exception of the increase on July 1, 2017, while inflation has increased steadily over the years. According to the Consumer Price Index, the rate of inflation is calculated at 30.75 percent since 2002, and 58.00 percent since 1994. A review of the Board's fund condition demonstrates that while the overall revenue of the Board has increased by 43 percent between FY 2002/03 and FY 2015/16, Board expenditures for the same period have increased by 80 percent.

B. Policy Statement Overview/Anticipated Benefits of the Proposed Regulations

The Board regulates approximately 24,000 licensed respiratory care practitioners. Through this rulemaking, the Board proposes to amend section 1399.395 of the CCR to increase renewal and delinquent fees. This proposal is necessary to ensure sufficient resources are available to maintain current Board operations to meet its consumer protection mandate.

B & PC section 3710.1 specifies, "Protection of the public shall be the highest priority for the [Board] in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be performed, the protection of the public shall be paramount."

Adoption and implementation of this proposed action would neutralize and correct the aforementioned Fund Balance decline and provide for a modest reserve for economic uncertainties through FY 2020/21. Without sufficient funding levels the Board will not be able to carry out its mandate to protect the health, safety, and welfare of California consumers.

C. Consistency and Compatibility With Existing Regulations

After conducting a review for any regulations that would relate to or affect this area, the Board has concluded that this is the only regulation that concerns renewal and delinquent fees for respiratory care practitioners. This proposed regulatory action is consistent and compatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

It is estimated that the proposed fee increases will result in an increase in Board revenues by approximately \$247,000 beginning FY 18/19; \$247,125 beginning FY 19/20; and \$296,550 beginning FY 20/21.

The Board does not anticipate any impact on federal funding.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Requires Reimbursement: None.

Business Impact

The Board has made an initial determination that the proposed regulatory action would have no significant statewide *adverse* economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board are costs associated with the increased renewal fee for a respiratory care practitioner from \$250 to \$275 during FY 18/19, from \$275 to \$300 during FY 19/20, and from \$300 to \$330 during FY 20/21. Those costs are estimated to be between \$25 and \$80 every renewal cycle (two years) for each active or inactive licensed respiratory care practitioner.

Effect on Housing Costs: None

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/New Businesses

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Effect on Small Business

The Board has determined that this regulatory proposal will not impact small businesses in the State of California, as the proposed amendments affect only individual respiratory care practitioners renewing their Board issued license.

Benefits of Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The Board has determined that this regulatory proposal will primarily benefit California consumers by ensuring sufficient revenue levels are maintained for the Board to administer and enforce the provisions of the Respiratory Care Practice Act. Specifically, this proposal is designed to enable the Board to continue its licensing, disciplinary, and oversight operations in the interest of the health, safety, and welfare of California consumers by ensuring only actively licensed practitioners are providing respiratory care services.

This proposed rulemaking is not anticipated to have an impact on worker safety or the State's environment.

Consideration of Alternatives

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present written statements relevant to the above determinations to the Board at the address indicated under contact person.

Initial Statement of Reasons and Information

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

Text of Proposal

Copies of the exact language of the proposed regulation, and of the initial statement of reasons, including any document incorporated by reference, and all of the information upon which the proposal is based, may be obtained upon request to the Board at 3750 Rosin Court, Suite 100, Sacramento, CA 95834 or on the Board's website at www.rcb.ca.gov.

Availability and Location of the Final Statement of Reasons and Rulemaking File

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below, or by accessing the website listed, on the following page.

Contact Person

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Christine Molina
Address: 3750 Rosin Court, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 999.2190
Fax No.: (916) 263.7311
E-Mail Address: rcbinfo@dca.ca.gov

The backup contact person is:

Name: Stephanie Nunez
Address: 3750 Rosin Court, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 999.2190
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Website Access: Materials regarding this proposal can be found at www.rcb.ca.gov.